

13/ Appeal Brief
Y. Smith
10/25/0

Date: **October 12, 2001**

Examiner: Shriver

Art Unit: 3611

APPELLANT'S BRIEF

The following is appellant's brief on appeal and is filed within the 60 day period following the filing of the Notice of Appeal on September 21, 2001.

The following numbered paragraphs correspond to the numbering set forth in 37 C.F.R. 1.192 identifying the contents of an appeal brief.

1. REAL PARTY IN INTEREST:

The real party in interest is the assignee, Scot Young Research, Ltd., a privately held United Kingdom corporation.

2. RELATED APPEALS AND INTERFERENCES:

None.

3. STATUS OF CLAIMS:

Claims 2 - 8 are pending and allowed. Claim 1 only is appealed.

4. STATUS OF AMENDMENTS:

An amendment after final was received in the Office September 25, 2001 in response to the final Office Action of July 31, 2001. That amendment was directed to Claims 2 - 5, which had been objected to by the examiner on the basis they depended from a rejected base claim. The amendment was intended to cure that objection and is believed that it did, although no response has not been received from the examiner at the time of filing this brief.

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5. SUMMARY OF INVENTION:

A combination mop bucket and trolley 1 with an independent and detachable mop bucket 2 is provided wherein the trolley 3 and mop bucket 2 each have separate wheels (14 for the bucket wheels and 34 for the trolley wheels) for independent movement. The trolley 3 has a front recess 36 to receive the mop bucket 2 with the bucket remaining supported on the floor surface and without having to lift the mop bucket 2 onto the trolley 3. A connection mechanism (38 - 57) extends between the trolley 3 and the mop bucket 2 to selectively attach mop bucket 2 to the trolley 3 so that the combined trolley and mop bucket 1 can be easily maneuvered by one person.

6. ISSUES:

The sole issue is whether Claim 1, which broadly claims the combination of a separable and independently movable bucket and trolley with an interconnection mechanism, is patentable. The sole ground of rejection is that of alleged obviousness under 35 U.S.C. 103(a). Applicant contests the examiner's determination of obviousness.

7. GROUPING OF CLAIMS:

Not applicable.

8. ARGUMENT:

There are no § 112 or § 102 issues.

Applicant's Claim 1 is as follows:

1. A detachable trolley and mop bucket combination comprising a mop bucket having wheels thereon and movable over a floor surface and a trolley having a frame adapted for carrying cleaning supplies, the trolley having wheels thereon for moving over a floor surface, the trolley and the bucket separately and independently movable and having a connection between them for selective attachment to securely connect the mop bucket to the trolley so that the combined trolley and bucket can be easily maneuvered by one person.

The examiner rejected Claim 1 on alleged obviousness over the combination of Kresse, et al., Pat. No. 5,913,528 in view of Wells, Pat. No. 4,319,761, stating:

"Kresse discloses a detachable trolley and trailer combination having a trolley (1) having a frame adapted for carrying cleaning supplies (See Fig. 1) supported by wheels (4) thereon for moving over a floor surface and a trailer supported by wheels thereon and movable over a floor surface, the trolley and the trailer separately and independently movable and having a connection (5) between them for selective attachment to securely connect the trailer to the trolley so that the combined trolley and trailer can be easily maneuvered by one person.

Kresse doesn't specifically disclose the trailer being a mop bucket having wheels thereon and movable over a floor surface. Wells teaches a mop bucket connector that connects two or more mop buckets together (See Figs. 1-2). At the time of the invention, it would have been obvious to a person of ordinary skill in this art to substitute a mop bucket for the trailer in Kresse in view of the teaching of Wells. The motivation for doing so would have been to wheel both around as a single unit, thereby greatly reducing the amount of labor involved (See Wells, column 1, lines 20 - 25)."

The examiner correctly concedes that the trailer disclosed in the Kresse reference, which the examiner uses to suggest a towed device in combination with a trolley, is not a mop bucket with wheels thereon and movable over a floor surface. The examiner also correctly identifies the Wells patent as showing a mop bucket connector that connects two or more mop buckets together. Where the examiner and applicant differ involves the examiner's contention that it would have been obvious to substitute a mop bucket from Wells for the trailer in Kresse. The examiner refers only to Wells, Col. 1, lines 20 - 25, as providing the necessary motivation for the hypothetical combination. The cited passage states:

Accordingly, a principal object of the present invention is the provision of a connector operable to join a pair of mop buckets in unitary assembly, whereby they may be wheeled about for

transportation as a single bucket, thereby greatly reducing the amount of labor involved.

The passage relied on by the examiner merely provides motivation to connect two buckets together so that they can be wheeled about as a single unit. It says nothing about substituting a bucket for a trolley, or selectively connecting a bucket and trolley together. Indeed, Wells '761 is utterly silent about any combination of any device other than a bucket with another bucket. So, Wells teaches and motivates one skilled in the art to connect together a pair of like objects so that the like objects can constitute a single unit. In distinction, applicant counters the teachings of Wells by connecting dissimilar objects. The motivation expressed in Wells is to create a single unit from a pair of like objects. Applicant's claimed device creates a single unit from two dissimilar objects. In doing so, Wells '761 teaches away from applicant's claimed device, and "teaching away" has long been considered an indication of non-obviousness (citations unnecessary). There is a reason why Wells desires a pair of buckets; he wants one bucket for soapy water and the other for clear rinse water (Col. 1, lines 9 and 10). And it is clear that Wells was aware of a cart (See Col. 1, lines 36 and 53) and stated that he connected the two buckets together so they could be wheeled about "in the manner of a cart", so Wells knew of dissimilar objects, like a cart, yet did not make the connection that a wheeled cart could be combined with a wheeled bucket.

Applicant recognizes that this art field tends not to include complicated art. There have been service carts or trolleys, mop buckets and mops for years well prior to applicant's invention. The art of record demonstrates that others have hit close to applicant's claimed device, yet missed it. Admittedly close prior art is Kresse, et al. '528 alone, which shows a wheeled trolley or cart with a bottom shelf on which to set a mop bucket. This patent, and others like it which existed well prior to Kresse, et al., demonstrates a generalized need to combine a mop bucket and a trolley. Yet the known prior art is devoid of applicant's claimed combination of a selectively detachable wheeled trolley and wheeled mop bucket.

This admittedly close prior art demonstrates the failure of others to achieve applicant's structure. The others hit all around the applicant's invention, but missed the mark and failed to provide the attractive benefits of applicants' claimed device. In Kresse, et al., the operator must lift

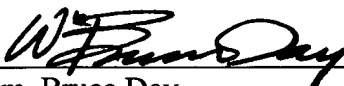
the heavy mop bucket from the bottom shelf of the trolley, leading to spilled water and/or strained backs. Kresse, et al. is the type of prior arrangement that applicants' invention was designed to improve upon. In Wells, the operator would wheel around the two combined soapy and rinse water mop buckets plus the Kresse, et al. trolley. If a person of ordinary skill in the art tried to combine Kresse, et al. and Wells, the logical combination, following the motivation expressed in Wells, is a structure formed of two Kresse, et al. trolleys. The combination of like objects is consistent with Wells; the combination of unlike objects, like the claimed structure, is inconsistent with the combination of Kresse, et al. and Wells. Applicant suggests that the examiner's applied combination is not supportable. The issue of hindsight reconstruction often arises in these matters and applicant suggests that it may have inadvertently occurred here. It would be easy for an examiner to see a wheeled mop bucket and a wheeled trolley from separate prior art and to presume that the combination of the two would be obvious after applicant's disclosure had identified the need for the combination. It might be easy to suppose this was obvious in its simplicity. But many inventions which turn out to have great commercial significance are simple and said to be obvious in hindsight. Applicant urges that the Wells patent is insufficient in its expressed motivation and indeed teaches away from the claimed combination, and that the combination of Kresse, et al. and Wells fails to make the structure of Claim 1 obvious. The examiner is urged to reconsider his position favorably to applicant, or in the alternative, the Board is urged to reverse the examiner's rejection of Claim 1 and order allowance.

An appendix containing Claim 1 is attached.

This brief is filed in triplicate and our check for \$160.00 enclosed.

Respectfully submitted,

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APPENDIX

1. A detachable trolley and mop bucket combination comprising a mop bucket having wheels thereon and movable over a floor surface and a trolley having a frame adapted for carrying cleaning supplies, the trolley having wheels thereon for moving over a floor surface, the trolley and the bucket separately and independently movable and having a connection between them for selective attachment to securely connect the mop bucket to the trolley so that the combined trolley and bucket can be easily maneuvered by one person.